

CASE NO. CR-

IN THE JUSTICE COURT OF THE ELKO TOWNSHIP,
COUNTY OF ELKO, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

DOB _____

SSN _____

vs.

**SECOND OFFENSE
POSSESSION OF ONE OUNCE
OR LESS OF MARIJUANA
WAIVER OF RIGHTS ON PLEA OF
EITHER GUILTY OR NO CONTEST**

Defendant.

I, Defendant _____ [Print Defendant's True & Correct Name], hereby plead either GUILTY or NO CONTEST [Circle Plea Being Entered] to the misdemeanor charge(s) of Second Offense Possession of One Ounce or Less of Marijuana, also known as "Second Offense Simple Marijuana Possession," as set forth in the criminal complaint on file in this case.

A. Right to Representation by a Lawyer

_____ I have the right to be represented by a lawyer at all times. If I cannot afford a lawyer, the judge will appoint one to represent me upon my request.

_____ I also have the right to represent myself without the assistance of a lawyer.

_____ I waive (give up) my right to be represented by a lawyer. I have chosen to represent myself in this case. I have made this choice even though there are the following dangers and disadvantages to self representation, among others.

[1] Self representation is often unwise, and I may conduct it to my own detriment.

- [2] I am responsible for knowing and complying with the same procedural rules as lawyers, and cannot expect help from the judge in complying with these procedural rules.
- [3] I will not be allowed to complain on appeal about the competency or effectiveness of my self representation.
- [4] The State of Nevada is represented in this case by experienced, professional lawyers who will have the advantage of skill, training and ability.
- [5] I may allow the prosecutor an advantage, may not make effective use of legal rights, and may make tactical decisions that produce unintended consequences.
- [6] The effectiveness of my self representation may well be diminished by my dual role as lawyer and accused.

(OR, IF REPRESENTED BY A LAWYER)

_____ I have chosen to be represented by a lawyer in this case. My lawyer is _____ [Print Lawyer's Name Here]. I have signed this document after consulting with my lawyer, and I am satisfied with my lawyer.

B. Other Rights

I understand that I have the following other rights in this case. I also understand that I will be waiving (giving up) these rights if I plead either guilty or no contest to the charge(s) I face.

_____ I have a right to a speedy, public trial.

_____ I have the right to require the State of Nevada to prove the charge(s) against me beyond a reasonable doubt at trial.

_____ I have the right to remain silent and refrain from incriminating myself. If I choose to remain silent, that choice cannot and will not be used against me by the judge.

_____ I have the right to waive (give up) the right to remain silent, and testify in my own behalf in court.

_____ I have the right to confront and cross examine (see and question) all witnesses called against me in court.

_____ I have the right to present evidence and subpoena witnesses to testify on my behalf in court.

_____ I have the right to appeal any conviction in this case.

C. Elements of Possession of One Ounce or Less of Marijuana; Criminal & Civil Penalties

I understand that “Simple Marijuana Possession” is comprised of the following elements, and carries the following maximum criminal and civil penalties for a first offense, second offense, third offense and fourth or subsequent offense.

_____ Simple Marijuana Possession occurs when a person unlawfully, and knowingly and/or intentionally, has in his/her actual or constructive possession one ounce or less of marijuana, a schedule I controlled substance.

_____ **Penalties for First Offense Simple Marijuana Possession**

- “First Offense” Simple Marijuana Possession is a misdemeanor punishable by a fine of not more than \$600.00.
- A person convicted of first offense Simple Marijuana Possession must also pay an administrative assessment of not more than \$115.00, a court facility fee of \$10.00 and a special court programs fee of \$7.00.

_____ **Penalties for Second Offense Simple Marijuana Possession**

- “Second Offense” Simple Marijuana Possession is a misdemeanor punishable by a fine of not more than \$1,000.00.
- A person convicted of second offense Simple Marijuana Possession must also pay an administrative assessment of not more than \$115.00, a court facility fee of \$10.00 and a special court programs fee of \$7.00.

_____ **Penalties for Third Offense Simple Marijuana Possession**

“Third offense” Simple Marijuana Possession is a gross misdemeanor punishable by a jail term of not more than one year and a fine of not more than \$2,000.00, or both.

A person convicted of third offense Simple Marijuana Possession must pay assessments and fees.

_____ **Penalties for Fourth of Subsequent Offense Simple Marijuana Possession**

“Fourth or Subsequent Offense” Simple Marijuana Possession is a category E felony punishable by a prison term of at least one year, but not more than four years, and a fine of not more than \$5,000.00.

A person convicted of fourth or subsequent offense Simple Marijuana Possession must pay assessments and fees.

E. Other Consequences of Conviction

I understand that the following other consequences of conviction exist in this case.

_____ This Second Offense Simple Marijuana Possession conviction and any other prior Simple Marijuana Possession conviction may be used to enhance the penalty for a subsequent Simple Marijuana Possession conviction.

_____ I can be charged with and convicted of a “third offense” Simple Marijuana Possession or “fourth or subsequent offense” Simple Marijuana Possession even if all prior judgments were entered as a “first offense” Simple Marijuana Possession.

_____ I can be charged with and convicted of “fourth or subsequent offense” Simple Marijuana Possession even if all prior judgments were entered as either “first offense” Simple Marijuana Possession or “second offense” Simple Marijuana Possession.

_____ If I am convicted of “first offense,” “second offense,” “third offense” or “fourth or subsequent offense” Simple Marijuana Possession at a time when I was not a U.S. citizen, I may be removed, deported or excluded from entry into the United States, or denied naturalization, in addition to other consequences defined in the federal law.

F. Entry of Plea; Waiver of Rights on Plea of Either Guilty or No Contest

By initialing and signing this document below, I acknowledge and declare as follows.

_____ I have read this document, and/or had this document read to me in the language I understand best, and I understand the entire document.

_____ If I am pleading guilty to a charge or charges of Second Offense Simple Marijuana Possession, I agree that I did what the State claims I did wrong in the charge(s) to which I am pleading guilty.

_____ If I am pleading no contest to a charge or charges of Second Offense Simple Marijuana Possession, I agree that the State has enough evidence to prove me guilty beyond a reasonable doubt of the charge(s) to which I am pleading no contest.

_____ I was sober and in full control of my mind at the time I: [1] read this document and/or had this document read to me; [2] initialed this document; and [3] signed this document.

_____ I have not been threatened or coerced in any way to enter (make) my plea(s). I am entering (making) my plea(s) without any promises of leniency, other than those which may have been placed on the record in court.

_____ I understand that the judge is not required to follow the sentencing recommendation of either party. The judge may impose any sentence allowed by law, including the maximum (harshest) sentence.

_____ I choose to waive (give up) my rights as described in this document, except the right to be represented by a lawyer if I am represented by one in this case, and request that the Elko Justice Court accept my plea(s) of either GUILTY or NO CONTEST [Circle Plea Being Entered]. I understand the judge will sentence me on and convict me of the charge(s) to which I am entering the plea(s).

DATED this ___ day of _____, 20__.

Defendant

Witness or Lawyer

CERTIFICATE OF COUNSEL

The undersigned, as the lawyer for the defendant named herein, and as an officer of the court, hereby certifies as follows:

1. I have fully explained to the defendant the elements of and the allegations contained in any charge(s) to which either a guilty or no contest plea is/are being entered.
2. I have advised the defendant of the penalties for each charge to which either a guilty or no contest plea is being entered, and the restitution that the defendant may be ordered to pay.
3. All pleas offered by the defendant are consistent with all of the facts known to me, made with my advice to the defendant, and are in the best interest of the defendant.
4. To the best of my knowledge and belief, the defendant:
 - (a) Is competent and understands the charge(s) and the consequences of pleading either guilty or no contest.
 - (b) Will enter all pleas voluntarily.
 - (c) Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this waiver of rights form.

DATED this ___ day of _____, 20____.

[Signature of Lawyer]

[Nevada State Bar Number]

Based upon my review of the foregoing waiver of rights form, together with my canvas of the above-named defendant in open court, I find that the defendant entered his or her plea(s): [1] knowingly, intelligently and voluntarily; and [2] with full knowledge of his/her constitutional rights, the maximum and minimum penalties for the charge(s) to which a plea was entered, and the collateral consequences of conviction of the charge(s). I therefore accept the plea(s).

Justice of the Peace

Date